



Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. **Facsimile:** 202-693-9441.
3. **Regular Mail or Hand Delivery:** MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939,

Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2014-026-C.

Petitioner: Covol Fuels No. 3, LLC, 10156 US Hwy 25E, Pineville, Kentucky 40977.

Mine: Crockett, MSHA I.D. No. 15-12682, located in Bell County, Kentucky; Coarse Coal Refuse Fill #5, Site I.D. No. KY07-12682-05.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles, general).

Modification Request: The petitioner requests a modification of the existing standard to permit coarse refuse to be placed over abandoned underground mine openings in the Hazard #7 coal seam during the construction of Coarse Coal Refuse Fill #5. The petitioner states that there are no steamlines associated with this proposal.

The petitioner further states that:

(1) The openings at issue in this request have been abandoned since January 15, 2002 when the final map for the Glendon #2 Mine was filed. These openings represent no threat to underground miners because all of the affected mine workings/openings are abandoned and there are no active mine workings above or below the abandoned coal seam or within miles of the coarse refuse fill.

(2) Covol Fuels No. 3 proposes to construct Coarse Coal Refuse Fill #5 in a small unnamed watershed within the Little Camp Branch watershed immediately east of the existing Little Camp Branch Slurry Impoundment along an existing bench on the Hazard #7 coal seam. There are a total of four underground mine openings located within the area where Coarse Coal Refuse Fill #5 will be constructed that will be covered. The location of each of these mine openings is identified on the Plan View Map provided in this petition.

(3) The Hazard #7 coal seam in this area was mined intermittently between 1996 and January 15, 2002, by several different companies, with the last company being Parton Brothers Contracting, Inc., at the Glendon #2 Mine, MSHA I.D. No. 15-18275, Bell County, Kentucky. Provided with this petition is a copy of the “Final” underground mine map for Glendon #2 Mine dated 01/15/2002.

(4) Coarse Refuse Fill #5 will extend along an existing bench on the Hazard #7 coal seam from near the Little Camp Branch Slurry Impoundment northeast approximately 900 feet to the abandoned underground mine site where the four relevant mine entries are located. This abandoned underground mine site extends an additional 400 feet for an approximate total of 1,300 feet of the bench that will be used for coarse refuse storage.

(5) This petition does not apply to the approximately 900 feet of the Hazard #7 bench. This petition only applies to the area where the four underground mine openings are located.

(6) Based on the elevations on the “Final” underground map, the floor of the coal seam dips slightly to the southwest, therefore, there is a potential for drainage out of the mine. In order to prevent the buildup of hydrostatic pressure within the abandoned underground workings, a drainage pipe will be installed in the abandoned fan entry as identified on the design plans for this site. A drainage pipe will not be installed in the remaining three entries.

(7) All four of the entries will be covered and sealed in exactly the same manner except for the entry with the drainage pipe. Generally, each entry will be cleared and opened to the extent possible. Durable well-graded sandstone will be backstowed into

the entry for a depth of 10 to 20 feet. The best available clay/spoil/soil material will then be placed against the backstowed mine entry and the entire exposed coal seam to a minimum of 2 feet above the top of the coal seam to isolate the coal seam from the coarse refuse. Coarse refuse will then be placed over the entire bench in 1-foot thick horizontal lifts and compacted to a minimum of 90 percent of standard proctor. The outslope of the fill will be maintained at 2H:1V or 27. As the coarse refuse fill is constructed, the outslope of the fill will be covered with a minimum of 2 feet of the best available soil/cover material. The site will then be vegetated with a variety of grasses, legumes and trees to support the post-mining land use.

(8) For the single entry that will be installed with a drainage pipe, the pipe will be a 10-inch SCR11 HDPE type pipe. This pipe will be extended into the entry a minimum of 30 to 40 feet. The end of the pipe will be left open but will be slightly elevated above the floor of the mine during installation of the pipe to prevent it from being plugged during installation. The portion of the pipe that extends into the mine entry, including the backstowed sandstone, will be perforated. Every 18-inch a total of four 3/4-inch diameter holes will be drilled at the quarter points to ensure that any water that accumulates in the mine will be able to drain from the mine. Once the drainage pipe exits the mine, it will be placed on a minimum of 1 percent grade all the way to exit the outslope of the fill to ensure that all water that accumulates in the mine will drain from the mine.

Dated: August 12, 2014

Sheila McConnell
Acting Director,
Office of Standards, Regulations and Variances

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